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BEFORE THE SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

59th AVENUE NEIGHBORHOOD
COMMITTEE,

Appellant,

v.

CITY OF SEATTLE and BMW
CONSTRUCTION,

Respondents.

SHB No. 90-28

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

THIS MATTER came on for hearing before the Shorelines Hearings Board, Harold S. Zimmerman, Presiding, and Board Members Annette S. McGee, Nancy Burnett, Mary Lou Block and David Wolfenbarger, on December 4, 1990, in Seattle, Washington. The Board viewed the site.

The matter involves an appeal to the Board challenging the City of Seattle's issuance of shoreline substantial development permits to B.M.W. Construction (Dale Norsen, agent) for the development of two seven-unit apartment buildings in West Seattle, Alki area.

Appearances were as follows:

1. Appellant, 59th Avenue Neighborhood Committee by Ken M. Anderson, Attorney at Law;
2. Respondent City of Seattle by Margaret Klockars, Assistant City Attorney;
3. Respondent B.M.W. Construction by Brian Wagner, President.

FINAL FINDINGS OF FACT,
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1 Donna Woods of Robert H. Lewis & Associates, provided court
2 reporting service. Witnesses were sworn and testified. Exhibits were
3 offered and examined. Argument was made.
4

5 From the testimony, exhibits and argument, the Shorelines
6 Hearings Board makes the following:

7 FINDINGS OF FACT

8 I

9 B.M.W. Construction applied on June 28, 1989, for shoreline
10 substantial development permits to construct apartment buildings on
11 two adjoining lots at 3824 and 3828 Beach Drive Southwest in West
12 Seattle.

13 The initial applications proposed two eight-unit buildings with a
14 total of 21 parking spaces. The application was revised, in response
15 to community concern about parking, to two seven-unit buildings, still
16 with 21 parking spaces. The site is partially within the Urban
17 Residential (UR) shoreline environment of the City Shoreline Master
18 Program, and is zoned Lowrise 2 multi-family.

19 II

20 The proposed buildings would front on Beach Drive Southwest.
21 Beach Drive Southwest is a fully improved arterial with a high volume
22 of traffic. It is designated as a scenic drive and a bicycle route.

23 Vehicular access would be to 60th Avenue Southwest, at the rear
24 of the buildings. 60th Avenue Southwest is a street which functions
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1 as an alley. Its right-of-way is 20 feet wide and the pavement is 16
2 feet wide but, because of overhanging vegetation, the exposed pavement
3 measures 14 feet 8 inches. The street leads directly to an
4 intersection with 59th Avenue Southwest. Walkers and cyclists use
5 this "alley."
6

7 III

8 A determination of nonsignificance (DNS) subject to conditions
9 was issued on March 20, 1990. Substantial development permits were
10 issued April 15, 1990.

11 IV

12 Parking.

13 In the fall of 1989 the City did a parking study of the Alki
14 area. The parking proposed for these buildings exceeds that required
15 by Code. That study showed the rate of utilization of on-street
16 parking in the area to be approximately 70 percent on the weekend
17 studied and substantially below that on a weekday night. The Seattle
18 Engineering Department considers 85 percent utilization to be
19 capacity. Similar nearby projects were found to have an average
20 parking demand of 1.44 per unit, less than provided by this proposal.
21 A condition was imposed requiring that parking charges be included in
22 the sales price or rental fee for the units. This will promote the
23 residents' use of the on-site parking. After the initial required
24 submission of lease or sales agreements to the City, enforcement will
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2 be on a complaint basis.

3 With a supply of 156 on-street spaces in the area, there is
4 available on-street space should car ownership be higher than
5 projected.

6 We find that the proposal will not have an adverse impact on
7 parking in the area.

8 IV

9 Traffic.

10 Based on the International Traffic Engineers trip generation
11 manual estimates for multi-family units, it is estimated that the 14
12 new units will generate 93 trips per day, some 10 of these during peak
13 hour. The existing development now on the site generates about 30
14 trips per day. So the actual addition to traffic from this project
15 would be about 63 trips.

16 Beach Drive Southwest carries around 2,500 vehicles per day and
17 59th Avenue Southwest approximately 1,000 per day.

18 There are no street intersections in the area which are
19 classified as "high accident" intersections by the Seattle Engineering
20 Department.

21 Residents and commuters heading to downtown Seattle use 59th
22 Avenue Southwest, a residential access street, as a shortcut rather
23 than using Beach Drive. It is likely that residents of the proposed
24 building will also use 59th.

1
2 A laurel hedge on property at the intersection of 59th and 60th
3 Avenue Southwest is some 12-15 feet high and grows to within a few
4 feet of the curb. It appears that this may limit the line of sight
5 for motorists leaving 60th Avenue Southwest to turn on to 59th Avenue
6 Southwest which slopes down toward the intersection. If a hazards
7 exists, the City has authority to abate the excess vegetation.

8 VI

9 The width of 60th Southwest is not adequate to meet the City's
10 street design standards; however, the City's Engineering Department
11 authorized an exception to the street standard on the basis that the
12 street is adequate for anticipated current and future needs.

13 Appellant seeks a condition requiring that the project's access
14 be from Beach Drive rather than 60th Southwest. It is generally safer
15 and better for traffic flow for vehicles to leave apartments by
16 exiting onto residential streets rather than arterials. Vehicles from
17 the site using Beach Drive would enter it at an intersection, rather
18 than midblock, again better for safety and for flow.

19 Traffic from the project would be noticeable to the residents but
20 would not substantially affect the operation of the streets.

21 We find that there will not be significant adverse impacts on
22 traffic from this project.

VII

Other.

The hillside to the east of the subject site above 59th Avenue Southwest is known locally as "Spring Hill." Water coming off the slope sometimes flows onto 59th Southwest and in freezing weather the street may have to be closed. A drainage plan has been approved for the project which provide for oil separation and for runoff from impervious surfaces on the subject site to be fed into the separate storm sewer system on Beach Drive.

We find that there are no adverse environmental impacts from this project.

VIII

Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such. From these Findings of Fact, the Board makes these:

CONCLUSIONS OF LAW

I

Appellant bears the burden of proof in both its challenges to the issuance of the DNS, pursuant to the State Environmental Policy Act, substantial development permits. RCW 90.58.140(7).

II

A DNS is to be issued by the agency if there will be no probable significant adverse environmental impacts from the proposal. SMC 25.05.340, WAC 197-11-340. Appellant has not shown that there are

1
2 significant environmental impacts caused by the project. See Findings
3 of Fact III & VII, above. We conclude that the City's issuance of the
4 DNS was proper.

5 III

6 Appellant urges that these permits do not conform to the City's
7 shoreline management plan, specifically:

8 All shoreline developments and uses shall be located,
9 designed, constructed, and managed in a manner that
10 minimizes adverse impacts to the surrounding land and
11 water uses and is compatible with the affected area.
12 SMC 23.60.152J: and

13 All shoreline development shall be located,
14 constructed, and operated so as not to be a hazard to
15 public health and safety. SMC 23.60.152L.

16 We conclude that these requirements have been met. See Findings
17 of Fact VI & VII, above.

18 IV

19 Any Findings of Fact deemed to be a Conclusion of Law is hereby
20 adopted as such. From these Conclusions of Law, the Board enters this:
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ORDER

The shoreline substantial development permits are hereby AFFIRMED.

DONE at Lacey, WA, this 31st day of January, 1991.

SHORELINES HEARINGS BOARD

Harold S. Zimmerman
HAROLD S. ZIMMERMAN, Presiding

Annette S. McGee
ANNETTE S. MCGEE, Member

Nancy Burnett
NANCY BURNETT, Member

Mary Lou Block
MARY LOU BLOCK, Member

David Wolfenbarger
DAVID WOLFENBARGER, Member